

**DURHAM, NORTH CAROLINA
MONDAY, MARCH 1, 2004
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

Also present: City Manager Marcia Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

The Mayor read a proclamation declaring March 2004 as Mental Retardation Awareness Month.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. Relative to Consent Agenda Item #31 [Renegotiated Loan Repayment Agreement (Marlynda W. Bodison)] City Manager Conner noted the motion should be revised. At this time during the meeting, this item was discussed.

**SUBJECT: RENEGOTIATED LOAN REPAYMENT AGREEMENT
(MARLYNDA W. BODISON)**

To authorize the City Manager to execute the loan repayment agreement with the Borrower in an amount not to exceed \$28,256.92 of Community Development Block Grant (CDGB) funds; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement.

Note: This item was approved at the February 19, 2004 Work Session with a vote of 4/1. Noes: Council Member Best.

City Manager Conner requested that the motion be revised to read: To authorize the City Manager to execute the loan repayment agreement with the borrower in an amount not to exceed \$27,388.15 of Housing Bond funds. She noted there is potentially a conflict regarding the use of CDBG funds; therefore, she is requesting the use of funds be Housing Bond and not Community Development Block Grant funds.

Council Member Stith asked what is the potential conflict and has the citizen agreed to the terms of this agreement.

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City Manager Conner reported the conflict is under the federal guidelines regarding the use of federal funds and the City would have to disclose the relationship of Ms. Bodison being a board member of UDI of which the Mayor is an employee. The Manager noted in order to avoid a conflict she is recommending that CDBG funds not be used, but to change the funding source to Housing Bond funds. Also, she stated this issue has been in discussion with the regional HUD office in terms of the recommendation on the appropriate way to handle this matter.

Relative to Ms. Bodison's relationship as a UDI board member, City Attorney Blinder noted this is not a conflict of interest under state law; however, there are separate programmatic guidelines that apply to the use of CDBG funds.

Mayor Bell reported when this issue came up--he immediately disclosed his position with UDI, CDC that Ms. Bodison was on the board. He stated he specifically asked was it appropriate for him to vote on this item and the City Attorney asked him if there were any financial interests involved and he said no; so therefore, it was appropriate for him to vote and he voted. Also, he noted since that time it was not known that funds being used were CDBG.

Council Member Catotti asked for clarification regarding the amount [\$28,256.92] printed on agenda and the City Manager's request to change it to \$27,388.15.

City Manager Conner noted the revised motion of \$27,388.15 includes the recommendation made at the February 19, 2004 City Council Work Session. She noted the penalty of \$868.77 was removed from the total amount of the loan repayment agreement.

Council held discussion on the penalty.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute the loan repayment agreement with the Borrower in an amount not to exceed \$27,388.15 of Housing Bond funds; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti and Clement. Noes: Council Members Best and Stith. Absent: None.

There were no priority items from the City Attorney.

City Clerk Gray swore in James Edward Vaughan as a member of the Cable TV Advisory Board.

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Council Member Clement acknowledged the Human Relations Department and Human Relations Commission for their productive Human Relations program and City staff for hosting Employees Recognition Banquet. Also, he recognized Bill McNeal, who grew up in Durham, for being named the 2004 National Superintendent of the Year.

Mayor Pro Tempore Cole-McFadden congratulated City employees on receiving awards at the Employees Recognition Banquet. She also applauded schools in the Durham Public Schools system and the Life Community Church on successful celebrations of Black History. Finally, she congratulated North Carolina Central University on reaching the finals in the CIAA Tournament and thanked Dr. Ammons for his leadership and vision at the school.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 3 [Voluntary Annexations]; 8 [Major Site Plan – SouthPoint Townes]; 14 [Professional Design Services for Durham City Hall Renovations]; 29 [New Horizons School]; and 30 [Time Warner Cable Update] were pulled.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[CONSENT ITEMS]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to approve the City Council minutes for the February 2, 2004 regular City Council Meeting was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONTRACTS

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to authorize the City Manager to execute contracts on the list; and

To authorize the City Manager to make changes to contracts on the list before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Contractor	Contract Description	Dept	CT Amt
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E. A. Page Coaching & Consulting	The manager as Coach workshop & benchmark feedbacks	HR	\$ 2,000.00
The Housing Authority of Durham	Amendment #2 Additional scope of work *	Housing	no change
Charles Blanks	Film, Video, Production classes	P&R	\$ 2,800.00
Shanga Williams	Computer Instructor	P&R	\$ 1,200.00
Women in Action	Conflict resolution for Weed & Seed	Housing	\$ 5,000.00
Center for Child & Family Health	Trauma Intervention Service **	Housing	\$ 6,000.00
* Amendment #1 extended contract expiration date			\$17,000.00
** Contract compliance is pending			

Note: Contracts for Women in Action and Center for Child & Family Health were approved at the February 19, 2004 City Council Work Session.

SUBJECT: BID REPORT – NOVEMBER 2003

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of November 2003 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

CITY OF DURHAM NORTH CAROLINA

February 12, 2004

MEMO TO: Marcia L. Conner, City Manager

THROUGH: Kenneth C. Pennoyer, Finance Director

FROM: Joseph W. Clark, Purchasing Manager

SUBJECT: Bid Report

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of November 2003.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

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1. Bid: Regenerative Air Street Sweeper

Purpose of Bid: To provide the Public Works Department with a new Street Sweeper

Comments:

Opened: October 21, 2003

Bidders:	Twin States Equipment, Inc.	*	\$ 97,998.00
	Marshville, NC		
	Public Works Equipment and Supply, Inc.		\$101,677.00
	Monroe, NC		
	Schwarze Industries, Inc.		\$108,415.00
	Huntsville, AL		

*Awarded based on: X Low Bid _____ Other (See Comments)

The Department of Equal Opportunity/Equity Assurance reviewed the bid submitted by Twin States Equipment, Inc. of Marshville, NC and have determined that they are in compliance with the Ordinance to Promote Equal Opportunities in City Contracting.

There were no SDBE firms in the databank to provide this product.

The workforce statistics for Twin States Equipment, Inc. are as follows:

Location Performing on Contract
Marshville, NC

2003

Total Workforce	6	100%
Total Females	2	33%
Total Males	4	67%
Black Males	1	17%
White Males	3	50%
Other Males	0	0%
Black Females	0	0%
White Females	2	33%
Other Females	0	0%

2. Bid: Replace the Water Heater in City Hall

Purpose of Bid:

Comments: This is an emergency.

Opened: November 20, 2003

Bidders:	Boiler Masters, Inc.	*	\$16,000.00
	Greensboro, NC		

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Bradburn Plumbing Company, Inc.	\$18,500.00
Durham, NC	
Boswell Plumbing Company, Inc.	\$21,056.00
Durham, NC	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	20		# Black Males	2	10%
Total # Females	4	20%	# White Males	13	65%
Total # Males	16	80%	# Other Males	1	5%
			# Black Females	1	5%
			# White Females	3	15%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

3. Bid: Furnish and Install Backup Generators

Purpose of Bid: To install generators at three Fire Stations

Comments:

Opened: October 14, 2003

Bidders:	Interstate Lightning Protection & Equipment Co.*	\$ 71,057.00
	Raleigh, NC	
	RVM/Lawson Electric	\$ 94,514.50
	Durham, NC	
	T & D Electric Company of Burlington, Inc.	\$ 97,900.00
	Burlington, NC	
	Gregory Poole Power Systems	\$103,320.00
	Raleigh, NC	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

The Department of Equal Opportunity/Equity Assurance reviewed the bid submitted by Interstate Lighting Protection and Equipment Company of Raleigh, NC and have determined that they are in compliance with the Ordinance to Promote Equal Opportunities in City Contracting.

There were no SDBE firms in the databank to provide this product.

The workforce statistics for Interstate Lighting Protection and Equipment Company are as follows:

Location Performing on Contract
Raleigh, NC

Total Workforce	8	100%
Total Females	2	25%

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Total Males	6	75%
Black Males	0	0%
White Males	6	75%
Other Males	0	0%
Black Females	0	0%
White Females	2	25%
Other Females	0	0%

4. Bid: One (1) Used Ambulance

Purpose of Bid: To purchase a used Ambulance for the Special Operations Division of the Police Department.

Comments: The funding source for this purchase is Controlled Substance Tax Distribution Funds and Federal Asset Forfeiture Funds.

Opened: October 24, 2003

Bidders:	Parkwood Volunteer Fire Department	*\$23,500.00
	Durham, NC	
	AmbuNet.com	\$24,000.00
	Elizabeth, NJ	
	AmbuNet.com	\$34,000.00
	Elizabeth, NJ	
	AmbuNet.com	\$39,000.00
	Elizabeth, NJ	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	137		# Black Males	3	2%
Total # Females	31	22%	# White Males	99	73%
Total # Males	106	78%	# Other Males	4	3%
			# Black Females	3	2%
			# White Females	27	19%
			# Other Females	1	1%

The SDBE Data Base was used in the solicitation of bids for this item.

5. Bid: One (1) Used Automobile

Purpose of Bid: To purchase a used automobile for the Special Operations Division of the Police Department.

Comments: The funding source for this purchase is Controlled Substance Tax Distribution Funds and Federal Asset Forfeiture Funds.

Opened: October 24, 2003

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Bidders:	Hertz Car Sales	*	\$10,689.00
	Raleigh, NC		
	CarMax		\$11,998.00
	Raleigh, NC		

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	64		# Black Males	13	20%
Total # Females	16	25%	# White Males	34	53%
Total # Males	48	75%	# Other Males	1	2%
			# Black Females	10	16%
			# White Females	4	6%
			# Other Females	2	3%

The SDBE Data Base was used in the solicitation of bids for this item.

6. Bid: Testing of Concrete Slab Construction

Purpose of Bid: This is a term contract for the Inspections Department to provide independent verification of concrete thickness and compressive strength.

Comments: \$325 per test, and approximately 48 tests over a two-years period.

Opened: October 20, 2003

Bidders:	Engineering Consulting Services, LTD	*	\$15,600.00
	Durham, NC		
	Ed Aguire & Associates, Inc.		\$29,040.00
	Raleigh, NC		

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	32		# Black Males	0	0%
Total # Females	9	28%	# White Males	21	66%
Total # Males	23	72%	# Other Males	2	6%
			# Black Females	1	3%
			# White Females	8	25%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

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JWC:lm

SUBJECT: BID REPORT – DECEMBER 2003

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of December 2003 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

CITY OF DURHAM NORTH CAROLINA

February 12, 2004

MEMO TO: Marcia L. Conner, City Manager

THROUGH: Kenneth C. Pennoyer, Finance Director

FROM: Joseph W. Clark, Purchasing Manager

SUBJECT: Bid Report

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of December 2003.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. Bid: Concealable Body Armor for the Police Department

Purpose of Bid: To purchase concealable body armor for the police department.

Comments: Lawmen's Safety did not submit a complete sample with the bid package for evaluation.

Opened: November 24, 2003

Bidders:	Lawmen's Safety (did not meet specifications)	\$35,660.00
	Raleigh, NC	
	Arrington Police	*\$35,749.10
	Greensboro, NC	
	American Uniform	\$35,929.10
	Fayetteville, NC	
	Southern Public Safety	\$40,771.80
	Greensboro, NC	
	Showfety's, Inc.	\$44,600.00
	Greensboro, NC	

*Awarded based on: _____ Low Bid X Other (See Comments)

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WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	17		# Black Males	0	0%
Total # Females	9	56%	# White Males	7	41%
Total # Males	7	44%	# Other Males	0	0%
			# Black Females	1	06%
			# White Females	8	53%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

2. Bid: One (1) Used Automobile

Purpose of Bid: To purchase a used automobile for the Special Operations Division of the Police Department.

Comments: The funding source for this purchase is Controlled Substance Tax Distribution Funds and Federal Asset Forfeiture Funds.

Opened: December 4, 2003

Bidders:	Hertz Car Sales	*	\$10,645.00
	Raleigh, NC		
	CarMax		\$10,998.00
	Raleigh, NC		

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	64		# Black Males	13	20%
Total # Females	16	25%	# White Males	34	53%
Total # Males	48	75%	# Other Males	1	2%
			# Black Females	10	16%
			# White Females	4	6%
			# Other Females	2	3%

The SDBE Data Base was used in the solicitation of bids for this item.

3. Bid: Knuckle Boom Loader

Purpose of Bid: To provide the Impact Team with a new Knuckle Boom Loader to be used in their debris removal operations.

Comments:

Opened: December 17, 2003

Bidders:	Carolina Environmental Systems	*	\$91,363.00
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Kernersville, NC	
Lucky Hydraulics	\$91,622.00
Huntsville, AL	
Volvo and GMC Truck Center	\$91,918.00
Charlotte, NC	
Triad Freightliner	\$92,376.00
Kernersville, NC	
Carolina Environmental Systems	\$92,613.00
Kernersville, NC	
Cavalier Equipment Corporation	\$93,531.00
Roanoke, VA	
Carolina Environmental Systems	\$95,250.00
Kernersville, NC	
Amick Equipment Company	\$101,836.00
Lexington, SC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	71		# Black Males	3	5%
Total # Females	11	15%	# White Males	57	80%
Total # Males	60	85%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	11	15%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

4. Bid: Furnish and Install Fencing at the Lick Creek Pump Station

Purpose of Bid:

Comments:

Opened: December 19, 2003

Bidders:	Dickerson's Fencing & Landscaping	*\$14,630.00
	Durham, NC	
	Bush Fence Company	\$15,000.00
	Morrisville, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	19		# Black Males	1	5%
Total # Females	3	16%	# White Males	10	53%
Total # Males	16	84%	# Other Males	5	26%

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# Black Females	0	0%
# White Females	3	16%
# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

5. Bid: Modifications to two (2) Refuse Collection Vehicles

Purpose of Bid: To install Fire Suppression Systems, Backup Sensors, and Cart Dumpers on two Refuse Collection Vehicles.

Comments: Carolina Environmental Systems, Inc. is the sole regional source for Heil Refuse Collection Vehicle parts, sales, and service.

Opened: December 23, 2003

Bidders: Carolina Environmental Systems, Inc. * \$31,300.00
Kernersville, NC

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	71		# Black Males	3	5%
Total # Females	11	15%	# White Males	57	80%
Total # Males	60	85%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	11	15%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

6. Bid: Estimated A/R for Diesel, Heating Fuel and Kerosene

Purpose of Bid: To provide City departments/divisions with their annual requirements for diesel, heating fuel and kerosene

Comments: Bids were mailed to several bidders and only one response was received.

Opened: December 23, 2003

Bidders: Couch Oil Company *\$66,358.00
Durham, NC

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	10		# Black Males	2	20%
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Total # Females	2	20%	# White Males	6	60%
Total # Males	8	80%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	20%
			# Other Females	0	0%

Performance Bond: _____ Waived _____ Not Waived _____ Not Required

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

JWC:lm

**SUBJECT: BIDS – COMBINATION CATCH BASIN/SEWER CLEANER -
PUBLIC WORKS EQUIPMENT AND SUPPLY, INC.**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to accept the bid from Public Works Equipment and Supply, Inc. in the amount of \$179,363 for providing the City with a Combination Catch Basin/Sewer Cleaner; and

To authorize the City Manager to enter into a contract with Public Works Equipment and Supply, Inc. in the amount of \$179,363 for providing the City with a Combination Catch Basin/Sewer Cleaner; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN – STRAWBERRY FIELDS TOWNHOUSES
(D03-568)**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to approve a major site plan, submitted by Sear-Brown, on behalf of Willwood, LLC, for the construction of 38 townhouse units on 6.18 acres, located on the southwest corner of Hope Valley Road and South Roxboro Street, zoned RM-8 and F/J-B, Parcel ID 13549, PIN 0719-03-32-9155, City Atlas: Pages 36, Section D-4 and 37, Section A-4 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH
CENTEX HOMES CORPORATION - HERNDON TRACT**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to authorize the City Manager to enter into a water and sewer extension agreement with Centex Homes Corporation to serve Herndon Tract was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WATER EXTENSION AGREEMENT WITH GOLD LEAF
DEVELOPMENT COMPANY – ASHE STREET PROPERTY**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to authorize the City Manager to enter into a water extension agreement with Gold Leaf Development Company to serve Ashe Street Property was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: REIMBURSEMENT DECLARATION FOR THE PROPOSED 2004-
05 CERTIFICATES OF PARTICIPATION (COPS) – VARIOUS
PROJECTS**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to adopt a resolution declaring the intent of the City of Durham to reimburse itself for capital expenditures incurred in connection with certain computer and facilities improvements from the proceeds of certain tax-exempt obligations to be executed and delivered during calendar year 2004 or 2005 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9090

**SUBJECT: PROPOSED ACQUISITION FOR THE FUTURE EXPANSION OF
LAKE MICHIE PROPERTY OF DEMPSEY ELLIS AND WIFE,
ANNIE ELLIS**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to approve the acquisition of unimproved land from Dempsey Ellis and wife, Annie Ellis, property identified as Parcel ID 193173 - Old Tax Map 956-01-009 (approx. 12.17 acres); Parcel ID 193183 - Old Tax Map 956-01-014 (approx. 6.92 acres); and Parcel ID 193184 - Old Tax Map 956-01-015 (approx. 7.35 acres) for \$264,400 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-

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McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: U.S. CONFERENCE OF MAYOR'S LEAD GRANT PROJECT ORDINANCE

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to adopt a "City of Durham Grant Project Ordinance GIS Identification Model for Propensity of Lead-Based Paint"; and

To authorize the expenditure of the U.S. Conference of Mayor's Lead Grant in the amount of \$100,000 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12918

SUBJECT: EXTENSION OF CIVIC CENTER MANAGEMENT AND CATERING AGREEMENTS – SHANER GROUP

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to receive a presentation on the Extension of Civic Center Agreements; and

To authorize the City Manager to execute amendments to the Civic Center Management and Catering Agreements to extend the termination dates of these agreements to June 30, 2004; and

To authorize the City Manager to make modifications to these amendments provided that the modifications do not increase the dollar amount of the agreements and the modifications are consistent with the general intent of the existing version of the agreements was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: INITIAL CONCEPTUAL DESIGN FOR MULTI-MODAL STATION – DURHAM STATION TRANSPORTATION CENTER

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to receive a presentation on the Initial Conceptual Design for Multi-Modal Station was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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SUBJECT: STOP THE VIOLENCE CRUSADE FOR CHRIST

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to receive comments from Bishop Arnold Harris on the seriousness of our youth participating in gang activities and the rise of gun violence and other crimes was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: U.S. CONFERENCE OF MAYORS LEAD GRANT PROGRAM – DURHAM AFFORDABLE HOUSING COALITION - DURHAM COUNTY HEALTH DEPARTMENT – DUKE UNIVERSITY (CEHI) – NCCU (PEACH)

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to authorize the City Manager to execute a contract in the maximum amount of \$25,000 with Durham Affordable Housing Coalition; and

To authorize the City Manager to execute a contract in the maximum amount of \$5,000 with Durham County Health Department; and

To authorize the City Manager to execute a contract in the maximum amount of \$30,648 with Duke University (CEHI); and

To authorize the City Manager to execute a contract in the maximum amount of \$24,352 with North Carolina Central University (PEACH); and

To authorize the City Manager to modify contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: HOUSING CODE ENFORCEMENT

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to receive a report on Housing Code Enforcement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[ITEMS PULLED FROM CONSENT AGENDA]

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SUBJECT: VOLUNTARY ANNEXATIONS RECEIVED PRIOR TO JANUARY 1, 2004 – HIGHLAND PARK – C. M. HERNDON PARK

Council Member Brown expressed concern about the lack thereof of police officers that the City currently has urging the administration to take a serious look at staffing needs of the Police Department and report back with a five-year plan.

MOTION by Council Member Brown seconded by Mayor Pro Tempore Cole-McFadden to accept the City Clerk's certification of 100% ownership as required by N.C. General Statutes 160A-31 and 160A-58; and

To adopt a resolution scheduling a public hearing for Monday, March 15, 2004 to hear citizen comments concerning a petition for voluntary annexation of Highland Park Subdivision; and

To adopt a resolution scheduling a public hearing for C.M. Herndon Park for Monday, March 15, 2004 to hear citizen comments concerning annexation of municipal property. If the City Council approves the petitions on March 15, the recommended effective date of the annexation would be March 15, 2004 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #s 9088 - 9089

SUBJECT: MAJOR SITE PLAN – SOUTHPOINT TOWNES (D03-113)

Mayor Bell asked the developer what is the status of the townhomes in terms of development if the site plan is approved.

David Johnson, the developer, reported that Centex Homes had not purchased the property or signed the contract.

MOTION by Council Member Clement seconded by Council Member Stith to approve a major site plan for 'Southpoint Townes', submitted by Haden Stanziale, P.A., on behalf of Centex Homes, for 142 townhomes on a 17.75 acre site zoned RM-8(D) and F/J-B, located on the north side of Johnson Victory Circle and north of Audubon Lake Drive, Tax Reference 503-02-14, 015, 016, 017 and PIN 0718-01-46-9970, 9178, 7374, 0372, City Atlas Page 42, Block B-1 was approved at 7:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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SUBJECT: AGREEMENT FOR PROFESSIONAL DESIGN SERVICES FOR DURHAM CITY HALL RENOVATIONS - WITH ROUGHTON, NICKELSON, DELUCA, ARCHITECTS, PA

Council Member Stith asked the administration questions that were answered by staff concerning the initial assessment completed by George Williams, arbitrage issue, debt service, timeline for cost estimates and pre-design.

Mayor Pro Tempore Cole-McFadden requested the administration to make sure the Council Chambers is in compliance with the Americans with Disabilities Act (ADA).

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Roughton, Nickelson, DeLuca, Architects, PA, in the amount of \$136,000 for Basic Services and Additional Pre-Design Services will be compensated on an hourly basis not to exceed \$27,000; and

To authorize the City Manager, or her designee to negotiate and execute change orders to the Roughton, Nickelson, DeLuca, Architects, PA, contract provided the total cost of all change orders for design services does not exceed \$16,300 and the total cost of this professional services contract does not exceed \$179,300; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

At this time during the meeting, Bill Johnson informed Council that there was a fire in Hope Valley last night wherein two firemen were injured.

Council Member Clement asked the administration to bring a report to the March 4, 2004 Work Session concerning this matter.

SUBJECT: NEW HORIZONS SCHOOL

To hear comments from Martina Dunford regarding Durham Public Schools not financially supporting New Horizons and for Council to hold Durham Public Schools accountable and to reconsider Council's earlier action.

Jackie Wagstaff, a Durham resident, expressed concern with the action taken by the Durham Public Schools noting at the Council Work Session, the school board stated New Horizons would not be affected by the new initiative [Community Learning Center] and that there would not be an overlap. Also, she commented on the funding that New

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Horizons will not be able to receive due to DPS not signing off on the grant urging Council to rethink funding that was given to this initiative.

LaVonnia Allison, representing DCABP, expressed concern with the process for this item, commented on the support expressed by the former Associate Superintendent for New Horizons and urged Council to rescind the action already taken on this issue.

Victoria Peterson made comments in support of New Horizons.

Melvin Whitley, of 2614 Harvard Avenue, spoke in support of New Horizons, made comments on the promise that DPS made that there would be no conflict, no problems and now there is one and urged Council to make sure that we don't lose the services that we now have.

Mayor Bell provided background information on this item commenting on the previous discussions that had taken place that led to Council's support for the program and conversations he had with Martina Dunford regarding DPS not signing off on the grant to meet the deadline. He asked the City Manager to find out why Durham Public Schools refused to fund the program and noted he is not in support of de-funding the program [Community Learning Center] that Council has already taken action on.

City Manager Conner briefed Council on the discussion that was held with the Crime Commission. She reported New Horizons was removed from funding consideration because they did not meet the deadline; however, the Crime Commission did state that after they go through their process and if they have any funding left—New Horizons can apply for that funding and was also encouraged to apply during the next cycle.

Council Member Stith made comments on the City's funding for the Community Learning Program.

Council held discussion on funding sources [Non-City Agency, Weed and Seed, CDBG].

Senior Assistant to the City Manager Reginald Johnson made comments on the letter received from Ms. Dunford's attorney addressing why she would not appear at the February 19, 2004 Work Session.

Council Member Clement requested that Superintendent Ann Denlinger attend the March 4, 2004 City Council Work Session to provide an explanation concerning this issue.

Mayor Pro Tempore Cole-McFadden asked the City Clerk to provide a transcript on the discussion that was held at the December 4, 2003 Work Session concerning this issue.

Note: This item was referred to the March 4, 2004 City Council Work Session.

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SUBJECT: TIME WARNER CABLE UPDATE

Rev. James Edwards Vaughan thanked Assistant City Manager Ted Voorhees for his work, commented on the upcoming Public Producers Awards Ceremony and requested a CATV Board representative to sit on the franchise negotiations committee as an observer.

MOTION by Council Member Clement seconded by Council Member Stith to receive an update on Time Warner Cable was approved at 8:12 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: RECEIPT OF PUBLIC COMMENT AND ADOPTION OF ORDINANCES REGARDING VOLUNTARY ANNEXATION PETITIONS SUBMITTED PRIOR TO JANUARY 1, 2004

Budget Director Julie Brenman made comments on this item.

Mayor Bell opened the public hearing.

Ron Horvath, representing NC 55 - Alexander Drive Property and Stonehill Estates II, noted he was present to answer questions.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Clement to receive public comments concerning the voluntary petitioned annexation of

- NC 55 – Alexander Drive Property,
- Stonehill Estates II – Cluster Development and
- Massey Chapel Road Assemblage (Chelsea Meadows); and

To adopt ordinances annexing these areas to the City--recommended effective date for this annexation is March 1, 2004; and

To authorize the City Manager to modify an existing half-base contract with the Redwood and Parkwood Volunteer Fire Departments to provide supplemental fire protection services over a five-year period for the Voluntary Annexation Areas, under the same terms and conditions as services are provided to other areas in such contracts for the NC 55 – Alexander Drive Property, Stonehill Estates II – Cluster Development, and Massey Chapel Road Assemblage (Chelsea Meadows) was approved at 8:14 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #s 12919 – 12920 - 12921

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SUBJECT: REZONING CASE P03-57 – KITT CREEK, LOT 3 – KITT CREEK DEVELOPMENT, LLC – WEST SIDE OF NC HIGHWAY 55, NORTH OF SEDWICK ROAD

To receive public comments on rezoning Case P03-57 (Kitt Creek, Lot 3); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-57 out of NC and RD; F/J-B and placing same in and establishing same as NC(D) and RD(D); F/J-B.

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Approval – (5-2)

City/County Planning Director Frank Duke briefed Council on the staff report. He gave an overview of committed elements highlighting the access, internal pedestrian connections, no dumpster enclosures in the floodplain, building floor area, no residential dwellings, conservation easement and tree coverage. He noted this proposal is consistent with the NC 54/I-40 Corridor plan and staff and the Zoning Committee have recommended approval.

Mayor Bell opened the public hearing.

Proponent

Ron Horvath, representing the applicant, spoke in support of this rezoning case. He provided Council with a rezoning exhibit, discussed why Lots 3 and 4 are two separate cases noting they will share a driveway, commented on area that would be used for commercial development, noted the conservation easement would prohibit any further crossings or roads except for utility access and construction of trails or pathway, and commented on the donation of land to Parkwood Elementary School which could be utilized for expansion or open space.

Opponents

LaVonnia Allison, representing DCABP, spoke in opposition to this rezoning expressing floodplain concerns in the land being donated to Parkwood Elementary School.

City/County Planning Director Frank Duke noted there would be no development in the floodplain portion, commented on the floodway fringe and noted Durham does not have conditional use zoning.

Dave Tarney, of 106 Spears Lane, expressed stormwater concerns in the Parkwood area urging Council to deny this request.

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Rebuttal

Ron Horvath, representing the applicant, noted for clarification that the area going to Parkwood Elementary is not in the floodplain, stated there is no filling in the flood fringe in Lot 3. Relative to rezoning case P03-75 (Kitt Creek - Lot 4), Mr. Horvath noted there is one corner of the driveway that may encroach on a floodway fringe and the applicant is confident that the driveway could be put in at grade level with the floodplain and no fill will occur there and would be adding this to that plan.

Mayor Bell asked the applicant does the school want the property and made comments on the size of property to be donated.

A representative for the developer made comments on the discussion held with school administrators; noted the school has been provided with the offer and a Phase I Environmental study.

Council Member Catotti asked the applicant if he was committing to no enclosures in the floodplain and no fill.

Ron Horvath, representing the applicant, replied yes.

City/County Planning Director Frank Duke asked the applicant if he would be replacing the language of no dumpster enclosure to say no development in the floodplain area.

Ron Horvath, representing the applicant, replied that's correct.

City/County Planning Director Frank Duke noted the committed element that says no dumpster enclosures will be eliminated and replaced with a new committed element--no development in the floodplain area.

In addition, Ron Horvath, representing the applicant, asked that no filling in the floodplain be added as a committed element.

City/County Planning Director Frank Duke noted the committed element would read that there would be no development or fill in the floodplain area.

Council Member Catotti raised a concern that there be no construction in the conservation easement.

Ron Horvath, representing the applicant, noted if the school board does not take the property the applicant would be committing to taking the 2.66 plus/minus acres in with the conservation easement.

Planning Director Frank Duke made a suggestion that a sentence be added to the conservation easement committed element that reads if such properties are not accepted

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by the adjacent properties the conservation easement shall cover the entire RD(D) portion of the site.

Ron Horvath, representing the applicant, replied that's fine.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Clement to receive public comments on rezoning Case P03-57 (Kitt Creek, Lot 3); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-57 out of NC and RD; F/J-B and placing same in and establishing same as NC(D) and RD(D); F/J-B was approved at 8:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: REZONING P03-75 – KITT CREEK, LOT 4 – KITT CREEK DEVELOPMENT, LLC – WEST SIDE OF NC HIGHWAY 55, NORTH OF SEDWICK ROAD

To receive public comments on rezoning Case P03-75 (Kitt Creek, Lot 4); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-75 out of NC and RD; F/J-B and placing same in and establishing same as NC(D) and RD(D); F/J-B

Planning Department Recommendation: Approval
Zoning Committee Recommendation: Approval - (4-3)

City/County Planning Director Frank Duke briefed Council on the staff report noting this is a companion to Case P03-57 (Kitt Lot 3) which contains many of the same committed elements; however, there is a change relative to the square footage of tree coverage and to the building floor area, but includes the same provision as Case P03-57 regarding the conservation easement. He noted that Mr. Horvath and his client will agree to the same modification of this site and the applicant has indicated that he would be committing to no fill in the floodplain area. He noted the proposal is consistent with the NC 54/I-40 Corridor Plan and staff recommended approval as well as the Zoning Committee.

Mayor Bell opened the public hearing.

Proponent

Ron Horvath, representing the applicant, spoke in support of this rezoning noting the same conditions apply to Lots 3 and 4 except that there would be no fill in the flood

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fringe. He reported there would be some filling in the ditch that has the flood fringe in order to gain access, there would be some minor filling of the flood fringe or development. He noted no areas for buildings would be filled for flood fringe and no areas for parking would be filled for flood fringe and the only work would be involved with driveways connecting up to the parking lots.

Opponent

LaVonnia Allison, representing DCAPB, spoke in opposition to this item expressing stormwater and environmental concerns.

City/County Planning Director Frank Duke noted the special design of the stormwater systems would have to wait until you're further along in the process. Also, he outlined the difference between the floodplain and floodway fringe.

City/County Planning Director Frank Duke noted the applicant has indicated that a committed element would be added to read no structures or parking spaces shall be located in the floodplain area. Also, he noted the applicant indicated that he would be adding the same language dealing with the conservation easement committed element to add the language if such properties are not accepted by the adjoining property owner, the conservation easement shall be extended over the entire RD(D) area.

Council Member Catotti expressed concern with building in the floodplain and the stormwater runoff issue.

Council held discussion on the stormwater issue.

There was no rebuttal by the applicant for this item.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Best to receive public comments on rezoning Case P03-75 (Kitt Creek, Lot 4); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-75 out of NC and RD; F/J-B and placing same in and establishing same as NC(D) and RD(D); F/J-B was approved at 8:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Clement and Stith. Noes: Council Member Catotti. Absent: None.

SUBJECT: REZONING CASE P03-76 - THE PARK AT SOUTHPOINT - REVEILLE, LLC – NORTHEAST QUADRANT OF THE I-40/NC 751 INTERCHANGE

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To receive public comments on rezoning Case P03-76 (The Park at Southpoint); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-76 out of GC(D), OI-2(D) and RM-8(D) and placing same in and establishing same as GC(D), OI-2(D) and RM-8(D), Change in Development Plan.

Planning Department Recommendation: No recommendation. No technical issues are raised by the rezoning. This decision is purely a policy decision.

Zoning Committee Recommendation and Vote: Approval – (5-2)

City/County Planning Director Frank Duke noted the applicant is requesting a deferral.

Attorney Kenneth Spaulding, representing the applicant, requested that this item be deferred to the April 19, 2004 City Council Meeting.

City/County Planning Director Frank Duke noted the applicant is requesting a deferral to address the landscape buffer along 751.

A motion was made by Council Member Clement seconded by Council Member Stith to defer this item to the April 19, 2004 City Council Meeting.

Mayor Bell made comments relative to the property, buffer and removal of trees from the property.

City/County Planning Director Frank Duke noted the grading plan was consistent with the provisions of the ordinance in clear cutting trees.

Relative to tree coverage replacement, Mayor Bell asked the administration to make sure the tree specificity meets the requirements of Council when this item comes back. He made comments noting a major concern was how the property would look when you drive along 751 making the car dealership invisible. Also, he made comments on the discussions he had with Attorney Spaulding concerning the use of a berm and made comments on the height of proposed building.

Attorney Kenneth Spaulding noted the building would be a story and a half [22 to 25 feet].

Council held discussion on whether to open the public hearing to receive comments.

The City Council heard comments from the following individuals without opening the public hearing.

Stella Adams, of 4126 Cobblestone Place, expressed concern noting that the Trotter Ridge neighborhood did not know that the applicant was going to clear cut the area and re-plant trees. She stated there was going to be a 50-foot buffer of trees to maintain the

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rural character of 751 and noted there are developments that have been approved that are empty, noted the community has turned into a clutter box and their neighborhood is trapped because they don't have a stop light. Also, she noted she is opposed to not having a tree buffer but also to the change of the condition about putting the residential property along with the commercial.

LaVonnia Allison expressed concern with the process when the developer has offered to do certain things and is now coming back requesting the elimination of the phasing and open space.

Steve Bocckino, of 7340 Abron Drive, spoke in opposition to this item expressing concern with the things the developer has promised to do and will not be doing [town homes, traffic circle, 50-foot buffer]. He urged Council to ensure that the buffer shields the car dealership completely from view.

MOTION by Council Member Clement seconded by Council Member Stith to defer this item to the April 19, 2004 City Council Meeting was approved at 9:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: REZONING CASE P03-77– PARRISH ARCHDALE ADDITION - TICON, INC. – NORTH OF MARTIN LUTHER KING, JR. PARKWAY AND EAST OF ARCHDALE DRIVE

To receive public comments on rezoning Case P03-77 (Parrish Archdale Addition); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-77 out of R-20 and RM-8(D) and placing same in and establishing same as RM-8(D).

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Denial – (4-3)

City/County Planning Director Frank Duke briefed Council on the staff report. He noted the proposal would allow for the development of 12 additional apartment units which is not a part of the development plan, the applicant will retain existing committed elements for the existing 60-unit complex and will add three additional committed elements relative to providing minimum tree coverage/open space and two full access entrances on Archdale Drive. Also, he noted the proposal is consistent with the Southwest Durham Plan, discussed traffic and school impacts, and noted staff has recommended approval and the Zoning Committee recommended denial.

Mayor Bell opened the public hearing.

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Proponent

Ron Horvath, representing the applicant, spoke in support of this rezoning case noting the applicant would be adding 12 units to this development. He provided Council with a proposed improvement and rendering plan and noted the applicant would make the connection to the existing trail on the southern portion of site on the right hand side of pond a committed element and informed Council that there would be no traffic signal placed at Archdale and MLK due to NCDOT.

Council Member Brown asked the developer what is the completion date for the S. Roxboro Street extension and 12 townhomes.

Ron Horvath, representing the applicant, noted he did not know the completion date for the extension; however, the units will be completed by the end of this year.

City/County Planning Director Frank Duke noted the applicant would be providing a pedestrian connection to the City park located adjacent to the site as a committed element.

Mayor Pro Tempore Cole-McFadden expressed traffic concerns.

Opponent

Lavonia Allison, representing DCABP, spoke in opposition to this rezoning citing school overcrowding and traffic concerns.

Mayor Bell made comments on reducing the view of apartments from the MLK Parkway.

Ron Horvath, representing the applicant, discussed the landscaping/tree coverage plans for this proposal.

Mayor Bell asked staff what kind of tree cover would be recommended to achieve the maximum density along the Parkway to make the apartments less visible.

City/County Planning Director Frank Duke reported a mix of evergreens as well as hardwoods and noted the ordinance only requires that at least 50% be hardwoods.

Ron Horvath, representing the applicant, noted the applicant would be offering a buffer type of mixed evergreen and deciduous trees in the plantings of the tree save area.

City/County Planning Director Frank Duke noted if it is a buffer then you could use the provision for the evergreens, but in the tree cover area you would not. This would not be a buffer, but a tree cover.

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Ron Horvath, representing the applicant, noted as long as it is considered a tree coverage area, the applicant would agree to treat it like a buffer and plant both deciduous and evergreens.

City/County Planning Director Frank Duke noted the applicant would be offering as a committed element that in the tree cover area along Martin Luther King, Jr. Parkway, the plantings shall include a mix of evergreens and native hardwoods consistent with the requirements of a planted buffer.

Ron Horvath, representing the applicant, requested that there be a fixed number of plantings.

City/County Planning Director Frank Duke noted the applicant would be offering as a committed element that in the tree cover area along Martin Luther King, Jr. Parkway, the plantings shall include a mix of evergreens equal to the number of native hardwoods plantings consistent with the requirements of a planted buffer.

Council Member Brown spoke in support of trees being 5 to 7 inches.

Ron Horvath noted the 5 to 7 inch trees will not grow very fast and spoke in support of a 3 to 4 inch caliper.

City/County Planning Director Frank Duke outlined why he was against going above a 4" tree due to slower rate of growth and lower survivability.

Ron Horvath, representing the applicant, noted the applicant would commit to 30% of hardwoods being at a 3 to 4 inch caliper and the remaining size would be 2 ½ to 3; evergreens will fall in varying heights.

After discussion, it was decided the hardwoods would be 3 ½ inches.

Frank Duke noted the applicant is committing to: The tree cover area along Martin Luther King, Jr. Parkway, the plantings shall include a mix of evergreens of varying sizes equal to the number of native hardwoods planted. Of the hardwood trees planted at least 30% shall be a minimum of 3 ½ inches in diameter.

Mayor Pro Tempore Cole-McFadden noted she would be voting against this item due to traffic impacts and due to her visit at Southwest Elementary where students wanted Council to build less houses, concentrate on building parks and the teachers were concerned about the classroom sizes.

Council held discussion on townhomes.

Mayor Bell declared the public hearing closed.

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MOTION by Council Member Best seconded by Council Member Clement to receive public comments on rezoning Case P03-77 (Parrish Archdale Addition); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-77 out of R-20 and RM-8(D) and placing same in and establishing same as RM-8(D) was approved at 9:28 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Brown, Catotti, Clement and Stith. Noes: Mayor Pro Tempore Cole-McFadden. Absent: None.

SUBJECT: INITIAL ZONING CASE P03-61 – CARDINAL SELF STORAGE - OLD OXFORD ROAD LLC, DUANE K. STEWART & ASSOCIATES, INC. – WEST SIDE OF OLD OXFORD HIGHWAY, NORTH OF HAMLIN ROAD

To receive public comments on initial zoning Case P03-61 (Cardinal Self Storage); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish I-2; F/J-B zoning for the property described in the staff report.

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Best to receive public comments on initial zoning Case P03-61 (Cardinal Self Storage); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish I-2; F/J-B zoning for the property described in the staff report was approved at 9:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING CASE P03-66 – WANDERLUST PROPERTY – TREYBURN LLC, TONY M. TATE LANDSCAPING ARCHITECTS, P.A. – SOUTH SIDE OF VINTAGE HILL PARKWAY, WEST OF SNOWHILL DRIVE

To receive public comments on initial zoning Case P03-66 (Wanderlust Property); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish PDR 2.240; F/J-B, ML/R-A zoning for the property described in the staff report.

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City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Best to receive public comments on initial zoning Case P03-66 (Wanderlust Property); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish PDR 2.240; F/J-B, ML/R-A zoning for the property described in the staff report was approved at 9:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING CASE P03-68 – TRENTON ROAD PROPERTIES - BRET BOCOOK, MICHAEL TALBOT, ARTHUR PETER WINFREY IV, GILBERT G. RAGLAND, SEDONIA A. PARRISH – SOUTHERN END OF TRENTON ROAD, EAST OF FARRINGTON ROAD AND I-40

To receive public comments on initial zoning Case P03-68 (Trenton Road Properties); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish R-20; F/J-B zoning for the property described in the staff report.

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments on initial zoning Case P03-68 (Trenton Road Properties); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish R-20; F/J-B zoning for the property described in the staff report was approved at 9:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: STREET CLOSING (SC03-01) – 48.01 LINEAR FEET OF SHERIDAN DRIVE RIGHT-OF-WAY – CITY OF DURHAM

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To receive public comments; and

To adopt an ordinance permanently closing 48.01 linear feet of Sheridan Drive right-of-way.

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive public comments; and

To adopt an ordinance permanently closing 48.01 linear feet of Sheridan Drive right-of-way was approved at 9:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12922

SUBJECT: STREET CLOSING (SC03-19) – 190.25 LINEAR FEET OF THE WATKINS ROAD RIGHT-OF-WAY – LH BOULEVARD LP (FORMERLY BOULEVARD PROPERTIES LP)

To receive public comments; and

To adopt an ordinance permanently closing 190.25 linear feet of the Watkins Road right-of-way.

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Catotti seconded by Council Member Best to receive public comments; and

To adopt an ordinance permanently closing 190.25 linear feet of the Watkins Road right-of-way was approved at 9:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12923

March 1, 2004

[GENERAL BUSINESS AGENDA]

SUBJECT: EQUAL BUSINESS OPPORTUNITY PROGRAM ADVISORY COMMITTEE (EBOP) - APPOINTMENTS

- (a) **MOTION** by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to appoint the following citizens to fill six (6) vacancies on the newly established Equal Business Opportunity Program Advisory Committee representing the following categories was approved at 9:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Mark Abram - SDBE Construction Firm Owner (Term expires April 1, 2006)

Phyllis Proctor - SDBE Construction Firm Owner (Term expires April 1, 2005)

Charles T. Wilson – Non-SDBE Construction Firm Owner (Term expires April 1, 2006)

Tyrone Cox - SDBE Professional Services Firm Owner (Term expires April 1, 2006)

Monique Valasquez – Non SDBE Professional Services Firm Owner (Term expires April 1, 2006)

Charlene Justice-Bass – SDBE Non-Professional Firm Owner (Term expires April 1, 2005)

- (b) To appoint a citizen to fill one (1) vacancy on the newly established Equal Business Opportunity Program Advisory Committee representing the category of SDBE Professional Services Firm Owner with a term to expire on April 1, 2005.

(NOTE: At the City Council Work Session on February 19, 2004, Patricia E. Harris received 3 votes and Jarvis Martin received 3 votes)

By ballot, the City Council appointed I. Jarvis Martin to the Equal Business Opportunity Program Advisory Committee representing the category of SDBE Professional Services Firm Owner with a term to expire on April 1, 2005 with four votes.

City Manager Conner updated Council on the fire that took place last night reporting that the house received substantial damage and the two firemen who were injured will be returning to work soon.

There being no further business to come before the City Council, the meeting was adjourned at 9:38 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk

March 1, 2004